

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

KIMBERLY S. MCKINNEY,

Plaintiff,

v.

CIVIL ACTION NO. 1:15CV90
(Judge Keeley)

CAROLYN W. COLVIN,
ACTING COMMISSIONER OF
SOCIAL SECURITY ADMINISTRATION,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S
OPINION/REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate James E. Seibert ("R&R") (dkt. no. 13), dated February 19, 2016. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, failure to file objections to the R&R permits the District Court to review the recommendation under the standards that the District Court believes are appropriate, and under these circumstances, the parties' right to *de novo* review is waived. See Webb v. Califano, 468 F.Supp. 825 (E.D. Cal. 1979). To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon review of the R&R and the record, it is the opinion of this Court that the Magistrate Judge's Report and Recommendation

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(dkt. no. 13) should be, and, is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. Therefore, the Court

1. **DENIES** the defendant's motion for Summary Judgment (dkt. no. 11); and
2. **GRANTS in PART** the plaintiff's motion for Summary Judgment (dkt. no. 9); and
3. **REMANDS** this case to the ALJ for reconsideration consistent with the reasons stated in the R&R.

The Court directs the Clerk of Court to transmit copies of this Order to counsel of record and to the appropriate agencies.

It is so **ORDERED**.

The Court directs the Clerk to transmit copies of this Order to all counsel of record.

DATED: April 6, 2016.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE